IX

1943-45 **File No.** 3260/36.

A CLASS Public Works DEPARTMENT

Estabt. BRANCH

Subject:— Conversion of Work-charged and tempy posts into permt. posts.

(C. P. H. E. to Govt.)

A [K]

Pl. IX

File No. 3260/36

Sta. Sectt. Slip 24-A

G.R., G D., No 2408, dated 22-6-22.]

Correspondence

DOCKET SHEET (B)

Pl. IX

Subject :—

File No. 3260/3

P. W. D. DEPT.

Establishment. BRANCH.

References :—

Date.	To whom sent.	Notes and instructions.

Finance Department (C).

These papers have been referred to this Deptt. with reference to paras 5, 9 and 10 of the P.W.D. office note dated 21-7-1944.

2. Para 5 of the P.W.D. office note: Pl. see paras 5 and 4 of G.Rs. P.W.D. No. 3260/36 dated 19-11-1943 and No.3486/36 dated 19-11-43 respectively. It has been decided that in the case of tempy. service and service on the work Charged Estabt. of the P.W.D., the proportion of past service to be counted for pension should be 3/4th of the former and 1/2 of the latter. The question now for F.D.'s consideration is whether, in the case of a Govt. servant whose service is composed of both Work-Charged and tempy. appointments, the total service to be allowed to count for pension should be made up as 3/4th of the tempy. service and 1/2 of the Work-Charged service. In other words the point to be considered is, whether a Govt. servant should be allowed to have the advantage of both of his past work-charged and tempy service in the P.W.D. for purposes of pension.

3. It may be observed in this connection that by issuing the orders in G.Rs. P.W.D. Nos. 3486/36 and 3260/33 dated 19-11-1943. Govt. has inter alia conferred certain benefits such as pension, leave etc. on Govt. servants in the P.W.D. who had long tempy. and work-charged service to their credit. Even though it has not been specifically made clear in the proceedings underlying the P.W.D. Orders, the intention would appear to be that a Govt. servant should get the benefit of his past service for purposes of leave, pension etc. irrespective of whether it was on the tempy. or on the work-charged establishment of the

P.W.D.

P.W.D. It may also be observed that a cut of 16% is to be made in the pay of a Govt. servant on being made permanent as a set off against pensionary benefit. According to the view expressed in para5 of the P.W.D. office note, dt. 27/7/44 the result would be that a man who had a short tempy. service after a long work-charged service to his credit, prior to his being made permanent, would have the advantage of only the tempy. service for his pension, his work-charged service not being taken into account at all. Another Govt. servant who had a continuous work-charged service to his credit would then be better off than a man whose service is partly tempy. and partly on work-charged Thus causing an invidious distinction. It would thus result in the anomaly pointed out by the Secy. P.W.D. in his note dated 31-7-44 and the purpose namely that by being made permanent the persons concerned should get the advantage of their past service for pension, leave etc. would be nullified. We may not therefore object to the view expressed in Secy's. P.W.D.s Note dated 31-7-1944 that in all calculations the service concerned should be a combination of both work-charged and tempy. service.

4. The following may however be considered. The P.W.D. has not stated the number of this type of cases. Before therefore we agree to the P.W.D. proposal it appears desirable to know the number of cases in which a person has both work-charged and tempy. service or vice versa to his credit. The P.W.D. may therefore be requested to obtain information on this point. Another relevant.....

relevant point to be considered is, regarding the breaks which may have intervened between a work-charged and tempy. service or vice versa. There may be cases in which there is a long break between the two different types of service (work-charged and tempy.) It therefore appears desirable to lay down some restriction in taking into consideration, past work-chargedor tempy. service as the case mayy be for purposes of pension, It may be pointed out that in the case of work-charged and tempy. service, breaks to the extent of 1/10th of the total work-charged or tempy. service are condoned. It appears desirable to apply the same restriction here namely, that if the breaks between the work - charged and tempy. service of vice versa if not more than 1/10th of the total work-charged and temporary service, the past service may be taken into consideration. If however the break is more than 1/10th of the total service, the service prior tothe break shall not be taken inot consideration. The P.W.D. may be requested to consider this point.

5. F.D. may concur in Secy. P.W.D.'s view as regards the reqqest mentioned in para 10(a) of the P.W.D. note dated 27/7/1944.-

Id/-
20/10/44

Id/-
21/12/44

Pl. see para 5 of the P.W.D. office noted dated 27-7-44 and the P.W.D. Secy's note below it. it appears that the Secy. P.W.D. holds the view that if a man has rendered service in a tempy. as well as in a work-charged post, his whole service should count for pension when he is appointed to a permanent post. It is submitted that this view is not quite correct.

According.....

According to B.C.S.R.240(1) service in a tempy. post counts for pension when the same tempy. post is sunsequently made permanent. From para 8 of the F.D. office note dated 1-6-43 at page 135 in P.W.D. file No.3260/36-IV it will be seen that the orders issued in the two P.W.D., G.Rs. of 19-11-43 in the matter of pension were based on the principle laid down in B.C.S.R.240(1). It is therefore clear that service either in a tempy. post or in a work-charged post will count for pension only when either of these posts is made permanent. If a man has rendered service in tempy. as well as in a work-charged post his service, both tempy, and work-charged, can be allowed to count for pension only when both the tempy. and work-charged posts are made permanent. Thus if a man has rendered service in a work-charged post before his transfer to a tempy. post and his tempy. post is made permanent, his service in the tempy. post only will count for pension and his service in the work-charged post will not count for pension unless that work - charged post is also subsequently made permanent.

Ld/- 8/1.

I agree with the note recorded above by the S.A.S. worked harged ~~B.S.(S)~~ Service does not count for pension, except as stated in para 4 of G.R. P.W.D. No. 3486/36 of 19-11-43. Therefore, service in a work-charged post will not count for pension unless that post is also made permanent

DS(S)

S.N.
12/1

U.O.R. to the P.W.D. dt. 12-1-45
with P.W.D. files 2260/36.IV
4176/36.III.....

4176/36 III

3486/36 I

3260/33 III

3260/33 I

S.B.(ii)

3260/36/30711

P.W.Deptt.

Submitted with reference to paras. 5, 9, and 10 of the office note dated the 27-7-44 and the Secy. (R.&.B.)'s note following it.

2. ~~The proposal of paras. 5 and 10 of G.R.No.~~
2. The proposal made by this Deptt, is that for the purpose of paras. 5 and 10 of G.R. No.3260/36, dated the 19-11-43 and paras. 4 and 9 of G.R.No. 3486/36, dated the 19-11-43 the total service on both the tempy. and work-charged estabts, rendered by the subdtes. who have been appointed to the pt. posts sanctioned in both the G.Rs. mentioned above with effect from the 1-4-43 may be taken into account, The orders that no subordinate with less than 5 yrs. total services should be appointed to the pt. posts (referred to above) without the specific sanction of Govt. have since been cancelled- vide clause (ii)of G.R.No.3486/36, dated the 14-9-44. The proposal therefore under consideration is that in the case of the subordinates appointed to the pt. posts in question whose previous service is composed of both tempy. and work-charged service the total service made up of three fourth of the tempy. service and one half of the work-charged service may be allowed to count for pension i.e. the subordinates concerned may be allowed to have the advantage of both their past tempy, and work-charged service fo purposes of pension.

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3. The view expressed in the F.D. Snr. Asstt. Secy's and Dy. Secy's foregoing notes does not seem to be correct. In this con. please see -

(i) para.11 of the F.D.o.n. dated the 8-1-43,

(ii) para.4 of the P.W.D.o.n. dated the 31-3-43, and the late Secy. Mr. Daftary's note following it.

(iii) para.8 of the F.D.o.n. dated the 1-6-43.

It will be seen therefrom that the orders issued in paras. 5 and 4 of G.Rs.Nos 3260/36, and 3486/36, dated the 19-11-43 respectively, regarding counting of previous tempy. and work-charged service towards pension are not based on the principles laid down in B.C.S.R.240(1) as in that case the whole period of pervious tempy. service of the subdtes. appointed to the pt. posts sanctioned in the two G.Rs.refd. to above would have been allowed to count towards pension while actually they have been allowed to count towards pension only three fourth of their tempy. service and one half of their work-charged service The tempy. and work-charged subdtes. who have been made pt. with effect from the 1-4-43 in the pt. posts refd. to above have been specifically allowed to count towards pension three-fourth of their previous tempy. service and one-half of their work-charged service respectively. These orders are applicable to these subordinates only and are not to be extended to other. The present proposal is made in view of the anomaly pointed out by the Secy.(R.&.B.) in his note dated the 31-7-44. It is accordingly for consideration whether this Deptt. may adhere to its proposal and the papers may be refd.u.o.to the F.D. with a request to reconsider its decision. A B

Id/- 30-1-45 In view of A, as at B.

Id- 30/1/45

U.O.R. F.D. dt: 2nd February 1945 (with files No.3260/36pt.IV & III)

Finance Department (C).

Submitted with ref. to office note dated 20-10-44 S.A.S's note dated 8-1-45 and Dy. Secy's note dt. 12-1-45.

2. The P.W.D. has pressed for reconsideration of its proposal, that in the case of a Govt. servant in the P.W.D. confirmed with effect from 1-4-43 his total past service, irrespective of whether it was made up of party work-charged and party tempy. service, should be allowed to count for pension, by calculating ¾ths of the tempy. service and ½ of the work-charged service.

3. The main point on which the P.W.D. has pressed for reconsideration of the proposal is, that in allowing past tempy. or work-charged service to count for pension, the orders were not based on the principle in B.C.S.R.240(1). In support of this contention that Deptt. has referred to F.D. office notes in P.W.D. files 3260/33 Parts 3 and 4.

4. In case it is decided to accept the proposal of the P.W.D., it has to be seen whether the present P.W.D. proposal will have any repercussions on other cases. It may be observed that the P.W.D. proposal is tant amount to setting aside the provision of B.C.S.R.240 and there is a likelihood that other persons will claim similar treatment if the P.W.D. proposal is agreed to. It may however be noted that the main intention of the P.W.D.orders of 19-11-43 was to confer certain benefits on a specified class of Govt. servants who were working on tempy. or work-charged establishment for a long time. With a view to achieving this object Govt. created an equivalent number of permanent posts. It will therefore be seen that the concession of counting past service etc. was to be confined to those persons only who were made permanent in accordance with the P.W.D. orders. Other Govt. servants cannot therefore it appears have any grievance. On other papers the P.W.D. has already agreed that the concession of counting past work-charged or tempy. services should not be extended to Govt. servants in that department.....

department who had already retired before 1-4-43, or those who being in service on that date were not confirmed in accordance with the P.W.D. orders. In the result, it may be observed that the present P.W.D. proposal is not likely to have repercussions on other cases.

5. If the case is considered strictly according to rules service in a post which is made permanent alone will count If appears however, that in the case of work-charged posts it would be difficult to apply this criteria in as much as there are no fixed posts on work-charged estabt. as is the case of tempy. establishment. It appears that posts are created in accordance with exigencies of work and abolished when the particular work is over. Work-charged service will not therefore count for pension if the provision of B.C.S.R 240 are strictly followed, unless it is shown that the very post or all posts which a Govt. servant (who is confirmed) held have been made permanent. Persons who have rendered most of their service on work-charged establishments will be at a great disadvantage and the benefits conferred by G.R., P.W.D. No.3486/36 dated 19th November will be denied to them if it is decided to take a strict view in this case.

This does not arise. Only such members of the work-charged estbt. who were regularly & continuously employed from year to year were brought on the permanent estbt. The criterion adopted was whether the posts in which the men were employed were required permanetly. vide G.M./P.W.D. 3486/36-E dt. 27-9-39 on page 33 in P.W.D. file 3486/36-I. Id/-

6. In any case before the P.W.D. proposal is accepted we may request the P.W.D. to first consider the remarks in para. 4 of F.D. office note dt. 20-10-44,

Id/-
6/3/45.

Please see the F.D. notes within.

2. The P.W.D. proposal is that for purposes of the two G.Rs. of 19-11-43 the total service on both the temporary and work-charged estabts. should be taken into account in

calculating.....

calculating pensionable service in the case of persons who are brought on permanent establishment. F.D. advised that previous service in temporaryor work-charged posts should be allowed to count for pension only when the temporary or work-charged posts in which the service was rendered were subsequently made permanent. The P.W.D. does not agree with the F.D. view and has advanced the following arguments in support of its own proposals:-

(a) The orders issued in the G.R. of 19-11-43 are not based on B.C.S.R.240(1) in as much as the full service admissible under that rule has not been allowed to count for pension, and

(b) anomaly pointed out by the Secy. P.W.D.

2. A perusal of para. 11 of the F.D. office note dated 8-1-43 will show-

(a) that this Deptt. intended to apply B.C.S.R. 240(1) in the case of temporary service,

(b) that this Deptt. proposed to allow less than full temporary service for pension on the analogy of the case of Draftsmen and Storekeepers in the P.W.D. who were not allowed to count any period of their pervious temporary service for pension,

(c) that the proposal to allow less than full temporary service was made with a view to keep down the pensionary charges.

The F.D. proposals were accepted by the then P.W.D. Secy (Mr. Daftari) with certain changes i.e. the proportion of service to be counted for pension. Obviously the P.W.D. then accepted the principle of B.C.S.R. 240(1) and in fact that rule has been mentioned in para. 5 of G.R. P.W.D. No. 3260/36 dated 19-11-43. F.D. was aware that the proposal in regard to the period of temporary service to be allowed to count for pension was in conflict with the B.C.S.R. 240(1) and with a view to obviate this difficulty, it was stipulated that the persons concerned mayyat their option either come on permanent estabt. on the conditions offered

to them or may remain on temporary estabt. This has been made clear in para. 7 of G.R. P.W.D.3260/36 dated 19-11-43 and in para 6 of G.R. P.W.D. 3486/36 dated 19-11-43. The contention in the P.W.D. office note that the principle of B.C.S.R.240(1) has not been applied in the present case is not therefore correct.

3. The anomaly referred to in the P.W.D. Secy's note dated 31-7-44 will continue to exist even though the present P.W.D. proposal is accepted. Thus in the illustration given whereas A will count 10 years for pension, B will count 11 years for pension (8 years out of 16 years work-charged service plus 3 years out of 4 years' temporary service) i.e. B will get more benefit than A even though their total service is the same. It is submitted that such anomalies are bound to arise when a large number of temporary men are brought on permanent estabt. Several Govt. servants in all Departments have short nonpesionable service prior to confirmation and this service is not allowed to count for pension unless the provisions of B.C.S.R. 240 are strictlt satisfied There is therefore no reason for according a different treatment tonthe P.W.D. staff in question.

4. The P.W.D. proposal is against the principle underlying B.C.S.R. 240(1) and there does not appear to be a sufficient reason tonrelax a well-established principle of the pension rules in this case. The P.W.D. proposal is tantamount to a allowing any service rendered by an employee to count for pension. The intention of Govt. in passing oreers in the two G.Rs. of 19-11-43 was to give some benefit, and not the whole benefit of the previous service or pension. The present P.W.D. proposal goes beyond the orighial intention of Govt. and, if the P.W.D. stillpersists, that Department may take orders of Govt. in the matter.

Id/-
17/3

S.M.
23/3

Shbject to the remarks

in para. 2 below, I think we should accept P.W.D. proposal at "A" on p.107. The orders contained on the two P.W.D. G.R. of 19-11-43 When existing ad hoc and not strictly related to B.C.S.R. 240(1). This was necessary because the posts which have been made permanent were not isolated posts which could be individually forced back but a number of categories of posts with several posts in each category these several post again being only some out of a still lager number which previously comprised work-charged posts of temporary posts, but now comprise permanent post war charged post or temporary posts. Except possibility in same case it should be wholly impracticably to take an idividual now occupying on to the permanent posts, and to say of the particulars war charged or temporary post he was occupying one particular date in the past that very post has now been made permanent or that it continues the work-charged or temporary. The P.W.D. proposed seems to me to offer the only feasible solution. It is also fair.

2. At the same time I think it should be made clear that no part of previous work-charged or temporary service should be admitted for pension or temporary service should be admitted for pension which has not been rendered in posts pertaining to one or more of the categories (e.g. Maistries, Karkuns, daftaries) now made permanent.

3. As for back previous service

service (as distinguished from breaks in temporary service or in work-charged service I think the same principle should apply as specified in the G.Rs. Thus in any one case the the break condoned — whether they occur in temporary service or in work-charged service or between two periods one of temporary service and the other of work-charged service —

should.....

should not in the aggrejats exceed 1/10th of total service (temporary plus work-charged)

Sd/-
24/3

J.O.R. to the P.W.D. dt. 28/3/45

with P.W.D. files 3260/36. IV
3486/36. I
3260/36. III
3486/36 II
3486/36. V

3260/36/30711

P.W.D.

P.D. (II)

Submitted with ref. to the office note dated the 0-1-45.

The F.D. has agreed to the proposal made at 'A' in para.2 of the office note refd. to above - vide para. 1 of the F.D., Jt. Secy.'s foregoing note.

3. Please see para. 2 of the F.D., Jt. Secy.'s note:- The F.D. Jt. Secy. apparently means that the tempy. and work-charged service rendered in the posts made permanent in G.Rs. Nos.3269/36 and 3486/36, both dated the 19-11-43, should be allowed to count for pension and not that rendered in the posts of Maistries, Karkuns and Daftaries only.

4. With ref. to the portion 'A to B' of para. 4 of the F.D. office note, it may be stated that orders extending the benefit of the orders in para. 5 of G.R. No. 3260/36, dated the 19-11-43, re:the counting of tempy. service towards pension to the subordinate and inferior servants who were in service on the 1-4-43 but had been promoted from the tempy. to the permanent estabt. prior to that date have since been issued - vide G. R. No. 6721/36, dated the 19-3-45.

5.

5. The draft G.R. put up may issue, if approved. After it has issued, the necessary further action will be taken with ref. to paras. 9-10 of the office note dated the 27-7-44.

Sd/-
3-5-45.

Sd/-
5/5/45

A(R) 8/5/45

Sd/-
10/5/45.

3260/36/30711

Establishment:

Conversion of temporary into permanent.

Conversion of work-charged into permanent and temporary

Orders regarding counting of temporary and work-charged service towards pension.

Government of Bombay,
Public Works Department.
Resolution No. 3260/36
Bombay Castle, 6th June 1945.

Read Government Resolutions, Public Works Department Nos. 3260/36 and 3486/36, both dated the 19th November 1943.

Resolution — In amplification of the orders issued in Government Resolutions, Public Works Department Nos.3260/36 and 3486/36, both dated the 19th November 1943, Government is pleased to direct that the temporary and work-charged subordinates, who have neen appointed with effect from the 1st April 1943 to the permanent posts sanctioned in the Government Resolutions quoted above and whose previous service is composed of temporary and work-charged service, should be allowed to count towards pension a total service made up of three-

fourth.....

fourths of their previous continuous temporary service and one-half of their previous continuous work-charged service subject to the following conditions:-

(i) In calculating continuous temporary and work-charged service for this purpose breaks in the temporary service, work-charged service and between the periods of temporary and work-charged service, not exceeding one-tenth in the aggregate of the total temporary and work charged service should be condoned.

(ii) Previous temporary or work-charged service not rendered in posts pertaining to the categories of the posts made permanent by the two Government Resolutions referred to above should not be allowed to count for pension.

By order of the Governor of Bombay,

Sd/-
(G. N. PANDIT); 5/5/45

Deputy Secretary to Government.

To

The Finance Department.
The Political and Services Department
The Revenue Department.
The Accountant General, Bombay(through the Finance Department).
The Superintending Engineers of Circles.
The SpecialOfficer (Electric Grid) (with Copies of the Government Resolutions referred to)
The Electrical Engineer to Government.
The Public Health Engineer to Government
The Director, Development Department Chawls
The Executive Engineers of Divisions.

No. of 1945.

Copy forwarded for information and guidance to.

(x) attached Br. consulted